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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,112	08/11/2003	Kathleen M. Walton	5495-12	5058

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EXAMINER

SHAH, AMEE A

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/637,112	WALTON, KATHLEEN M.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Amee A. Shah	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

Claims 1-15 are pending in this action.

#### ***Drawings***

The drawings are objected to because all the steps in Figures 2-5, which are flow charts, should contain reference numbers for each step in the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

**Claims 1-15 are rejected under 35 U.S.C. 102(a) as being anticipated by www.ftd.com, dated Sep. 27, 2002, captured via WayBackMachine (webarchive.org).**

Referring to claim 1. The website www.ftd.com discloses a method for marketing a heartbreak product comprising:

- selecting a suite of the heartbreak products (captured pages 4-9 – note the suite of products are the baskets);
- classifying said suite of the heartbreak products (pages 1, 5, 7 – note that classification can be based on occasion, product type, gender and age);
- offering said classified suite of the heartbreak products for sale on an Internet web site (pages 1-9);
- accepting an order for said suite of the heartbreak products (pages 13-16 – note that acceptance of the order is confirming the order);

- filling said order for said suite of the heartbreak products (pages 5, 6, 9, 10 – note that delivering the order is filling the order).

Referring to claim 2. The website [www.ftd.com](http://www.ftd.com) further discloses the method of claim 1 wherein said step of selecting said suite of the heartbreak products comprises choosing products that may cooperate one with another to offer comfort and support to a heartbroken person (pages 5 and 9).

Referring to claim 3. The website [www.ftd.com](http://www.ftd.com) further discloses the method of claim 2 wherein said step of classifying said suite of the heartbreak products comprises assigning an age-appropriate, gender specific and situation specific category designation to said suite of the heartbreak products (pages 3-10 – note the age-appropriate categorization is “child,” “woman,” or “man” baskets, the gender specific categorization is “woman” or “man” basket, and the specific category categorization is the occasion, e.g. “Sympathy & Funeral”).

Referring to claim 4. The website [www.ftd.com](http://www.ftd.com) further discloses the method of claim 3 wherein said step of offering said suite of products for sale comprises:

- adapting a server computer to respond to an appropriate request from a client computer (page 1 – note that the request is made by clicking on an occasion, product, price or by searching).
- said server computer then displaying said suite of products to a user (page 3);

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- said server computer being adapted to accept payment and delivery information from said user (pages 13, 14, 17, 18).

Note that a website inherently involves a server computer and a client computer (*see, e.g.,* Gralla, Preston, How The Internet Works, Millennium Ed., QUE, Indianapolis, IN, 1999, pages 40-43).

Referring to claim 5. The website www.ftd.com discloses an apparatus for marketing heartbreak products comprising: a client computer; a server computer; a network, said client computer and said server computer being adapted to communicate one with the other over said network; a menu, said server computer being adapted to transmit and said client computer being adapted to receive and to display said menu to a user (page 1); a suite of the heartbreak products, said menu being adapted to display said suite of heartbreak products to said user (page 3) (note that a website inherently involves a server computer and a client computer communicating with each other via a network (*see, e.g.,* Gralla, Preston, How The Internet Works, Millennium Ed., QUE, Indianapolis, IN, 1999, pages 40-43).

Referring to claim 6. The website www.ftd.com discloses the apparatus of claim 5, further comprising:

- said suite of the heartbreak products comprising a plurality of suites of the heartbreak products (pages 1, 3, 7);
- said displaying by said menu of said suite of the heartbreak products comprising said menu being adapted to display each of said plurality of suites to said user (pages 3, 7);

- said client computer being adapted so that said user may instruct said client computer to instruct said server computer to select one of said plurality of suites of said heartbreak products (pages 1, 3, 7 – note the selection is performed by clicking on the item);
- said server computer being adapted to elicit payment and delivery information from said user (pages 13, 14, 17, 18);
- said server computer further being adapted to instruct a vendor to deliver said suite of products as instructed by said user (note that the vendor delivering the suite of products is FedEx®).

Note that a website inherently involves a server computer and a client computer giving and accepting instructions (*see, e.g.*, Gralla, Preston, How The Internet Works, Millennium Ed., QUE, Indianapolis, IN, 1999, pages 40-43).

Referring to claims 7-9. All of the limitations in apparatus claims 7-9 are closely parallel to the limitations of method claim 3 analyzed above and are rejected on the same bases.

Referring to claims 10, 11, 13 and 14. All of the limitations in apparatus claims 10, 11, 13 and 14 are closely parallel to the limitations of apparatus claims 5 and 6, analyzed above and are rejected on the same bases.

Referring to claims 12 and 15. The website www.ftd.com discloses the apparatus of claim 11 wherein said means for selection comprises said client computer being adapted to receive from said user an instruction selecting said one of said suites of the heartbreak products

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and to transmit said instruction to said server computer (pages 1-14 - note that operating a website inherently involves a server computer and a client computer transmitting instructions, *see, e.g.*, Gralla, Preston, How The Internet Works, Millennium Ed., QUE, Indianapolis, IN, 1999, pages 40-43).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) Katz et al., U.S. Pat. No. 6,055,513, discloses methods and apparatuses for intelligent selection of goods and services, in part by using demographic information such as age, sex, etc. and discusses relevant prior art (*see* cols. 1-27).

(2) Carter et al., U.S. Pat. No. 6,574,607 B1, discloses a method of using an intelligent agent to put together a package of related items (*see* cols. 2-7).

(3) Song, U.S. Pat. No. 6,865,546 B1, discloses methods and systems for assisting users in purchasing items based, in part, on age or proximity to an occasion (*see* cols. 1-14).

(4) Kalagnanam et al., U.S. Pat. No. 6,873,967 B1, discloses an electronic shopping assistant that generates suggested gift and shopping lists by implementing user constraints in searching products databases and discusses relevant prior art (*see* cols. 1-12).

(5) Kim, KR 2001111913 A, discloses a method for marketing y recommending items for customers by accumulating and analyzing various information such as age, sex, etc. (*see* Abstract).



(6) The website, www.gifts.com, dated Apr. 5, 2001, captured via WayBackMachine (webarchive.org), discloses a website suggesting gift ideas based on age, gender, and occasion.

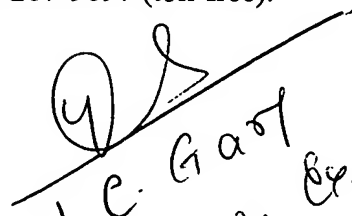
(7) Unknown author, "911gifts.com Expands Features, Services, And Merchandise To Rescue Holiday Shoppers," Business Wire, New York, Nov. 16, 1998, pg. 1, discloses a website, www.911gifts.com, that aids shoppers in selecting, purchasing wrapping and delivering gifts for any combination of occasion, recipient and price.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amee A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AAS  
January 19, 2006

  
Y. C. Gao  
Primary Ex.